Tunisia

Tunisia's new constitution, adopted in January 2014, contained numerous protections for media independence, indicating an important break from the repressive policies of former president Zine el-Abidine Ben Ali. However, some of the charter's provisions left open the possibility of arbitrary restrictions on journalists, and various laws dating to the Ben Ali era remained in force. Journalists and outspoken bloggers continued to face charges during the year for defamation and other offenses.

Legal Environment

Tunisia's 2014 constitution represents a considerable improvement over its predecessor with respect to press freedom, though observers noted some shortcomings. Article 31 guarantees "freedoms of opinion, thought, expression, information, and publication," and adds that these rights may not be subjected to prior control. The widely praised Article 32 enshrines the right to access information and communication networks. Article 49 states that the "law determines the modalities regarding the rights and freedoms guaranteed in this constitution and the conditions for exercising them, without endangering their essence," and proceeds to list circumstances in which restrictions on press freedom would be justified. Although the provision specifies that any limitations must show "respect for proportionality," the inclusion of "public morals" as criteria for limiting free speech was criticized by international press freedom groups.

Article 20 of the charter gives international treaties a "sub-constitutional and supra-legislative" status, and the text makes no reference to the International Covenant on Civil and Political Rights, the international baseline for press freedom. Moreover, Article 6 attempts to reconcile Tunisia's secular and religious populations by identifying the state as the guardian of religion and belief, a role that could be used to justify press freedom violations in cases of alleged blasphemy and similar offenses.

Despite the new constitution, the legal framework in which the media operate remains a mixture of new and Ben Ali–era elements. In November 2011, the transitional government passed Decrees 115 and 116, which were intended to replace the restrictive 1975 press code and create an independent audiovisual regulatory authority. These decrees enabled journalists to access information and publish without prior authorization from the Interior Ministry. However, they include some restrictive provisions, and the Ben Ali–era penal code also continues to be enforced, allowing journalists to be prosecuted for defamation and other crimes.

For example, in January 2014, a court in Tunis sentenced blogger Yassine Ayari in absentia to six months in prison under Articles 50 and 51 of the 2011 press code for denouncing a political analyst he linked to Ben Ali. Ayari was known for criticizing Ben Ali's regime as well as Beji Caid Essebsi, who was elected president in late 2014. The blogger appealed the decision, but he was arrested in another case upon his return to Tunisia in December; a military court had sentenced him to three years in prison in absentia in November, for allegedly defaming the armed forces. Final judgements in both cases were still pending at year's end. Separately, Jabeur Mejri, who was sentenced to seven and a half years in prison in 2012 for publishing online articles and cartoons deemed offensive to Islam, was released in March under a presidential pardon.

Journalists' access to information and sources has improved, but it remains a challenge. While a draft law on access to information was released in August 2013, press freedom groups criticized it for broad exceptions, the absence of a public-interest override clause, and the lack of an independent body to oversee implementation. Similar shortcomings had been identified in two earlier measures on the topic—a 2011 decree by the transitional government and a 2012 government directive detailing the criteria and

procedures for releasing public records. The parliament had yet to adopt the 2013 draft law at the end of 2014.

In May 2013, the Independent Broadcasting Authority (HAICA) was established as an independent self-regulatory body after the dissolution of the National Authority to Reform Information and Communication (INRIC). During debates over the constitution in January 2014, HAICA members protested provisions pertaining to the body's functionality and prerogatives. Article 127 of the constitution states that the authority will be consulted on relevant draft laws, which some of its members deemed insufficient and a threat to the body's decision-making capacity. Its diluted authority was evident in July, when then prime minister Mehdi Jomaa unilaterally closed a radio station and an affiliated television station without consulting the HAICA; the outlets, which were accused of carrying extremist views, were shuttered shortly after a militant attack that killed 15 soldiers.

In other cases, the authority played a strong supervisory role, issuing fines to radio and television stations totaling 703,000 dinars ($413,000) in 2014. Its decisions have generally been considered reasonable, despite external pressure from public and private actors. However, some moves have been more controversial. In October, the HAICA placed a one-month ban on *Liman Yajroo Faqat*, a popular talk show, after a guest on the program discussed his amicable relationship with terrorist leader Abou Iyadh. The suspension meant that the program would not be able to cover that month's parliamentary elections.

In November 2013, the Ministry of Communication and Technologies issued a decree creating a new Tunisian Technical Agency for Telecommunications (ATT), to "provide technical support for judicial investigations on cybercrimes." Press freedom advocates argued that the ATT's bylaws violated international law and disregarded UN recommendations regarding online surveillance. Critics also said the legal foundation for the agency—and for the crimes it was meant to address—was unclear, and warned that it could reprise the role of a Ben Ali–era predecessor that had routinely censored blogs and other websites. In August 2014, the ATT established a monitoring committee dominated by ministerial appointees.

The July 2014 leak of a draft law on cybercrimes drew strong opposition from bloggers and other freedom of expression advocates. The draft mandated fines and a six-month prison sentence for individuals who use "information and communications systems to spread content showing obscene acts and assaulting good morals." The sentence could be increased to three years if the content "incites immorality." The legislation was not adopted during 2014.

Since 2011, press freedom groups and professional organizations like the National Union of Tunisian Journalists (SNJT) have been active in pushing back against legal restrictions and providing assistance to journalists who are prosecuted or dismissed for their work.

Political Environment

There is no longer official censorship, and self-censorship has decreased since the fall of Ben Ali. The media on the whole were free to cover opposition parties and leaders without government interference in 2014, including in the period surrounding parliamentary and presidential elections. However, polarization of the media landscape has left news organizations divided by ideology, political affiliation, and economic interests. Media outlets tend to favor either progovernment or opposition voices, and adopt Islamist or secularist viewpoints. Polarization was exacerbated in December 2013, when the office of then president Moncef Marzouki released a controversial report listing journalists who had received payments from the Ben Ali regime in exchange for favorable reporting.

The environment for online expression has improved significantly since the revolution. In 2012, Tunisia joined the Freedom Online Coalition, a partnership of countries committed to supporting internet freedom. There were no reports of internet censorship in 2014, nor were there substantive reports that internet forums or private e-mail were being monitored. However, activists remained concerned that the ATT could lead to a regression in online freedom.

Physical assaults on journalists in the course of their work, while not systematic, have become common, particularly in encounters with police during demonstrations. In May 2014, when clashes broke out between police and protesters outside a courthouse during a controversial trial in Kasserine, five journalists and photographers were injured at the scene. Also in May, police detained journalist Abir Saidi, who was reporting on the release of a former regime official in Tunis. She was held without charges and questioned for several hours. That same day, police threw photojournalist Jalel Ferjani to the ground during a protest and destroyed his camera—though the officers were later punished for the incident. In July, police violently attacked journalist Nabil Ben Ouezdou at a protest in Djerba. He reported severe injuries to his face, legs, and back, and stressed that he presented his press credentials to the police in an attempt to defuse the confrontation. During the parliamentary and presidential elections in October and November, journalists did not experience widespread harassment, but some incidents were reported. Journalists have also reported receiving death threats in connection with their work.

Economic Environment

Prior to the revolution, the media landscape in Tunisia was dominated by a handful of state-owned outlets and private firms owned by figures tied to the Ben Ali family and the ruling party, all of which served as mouthpieces for the regime. Since 2011, state-owned media have been restructured to include more diverse viewpoints, although figures from the Ben Ali era remain influential. There was a spike in the number of private, independent media outlets immediately after the revolution, but many of these enterprises later dissolved, leading to major fluctuations in the number of operational media outlets. Nevertheless, several strong, private companies have taken hold in print, television, and radio, ensuring a greater diversity of political and regional representation. Numerous commercial radio, community radio, and television stations were authorized in 2014, as the HAICA granted licenses to over 20 new or provisionally approved outlets. Those whose applications were denied, typically for technical or financial reasons, would have the opportunity to reapply.

There is no longer a state intermediary between advertisers and the media, and the debilitating limits on advertising that existed under Ben Ali are no longer a factor for privately owned outlets. However, Tunisia’s weak economy has made it difficult for media companies to sustain themselves financially without backing from wealthy, politically connected investors. State media have also faced economic difficulties.

Approximately 46 percent of the population used the internet in 2014. Social-media platforms such as Facebook and Twitter are increasingly popular, and a growing number of other online services and websites are contributing to the news and information environment. However, access remains inhibited by high prices and underdeveloped infrastructure. Despite the popularity of mobile telephones, with over 14 million subscriptions countrywide, mobile internet service is beyond the financial reach of most Tunisians.